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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BROOKLYN OFFICE

GENERAL NUTRITION INVESTMENT
COMPANY and GENERAL NUTRITION
CENTERS, INC.,

ORDER
10-CV-2763 (NGG) (RML)

Plaintiffs,

v.

GENERAL VITAMIN CENTERS, INC. and
NAYMA CHEEMA,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

Plaintiffs General Nutrition Centers, Inc. ("GNC") and General Nutrition Investment Company (together, "Plaintiffs") brought this action, alleging that Defendants General Vitamin Centers, Inc. and Nayma Cheema (together, "Defendants") infringed on Plaintiffs' GNC mark. (Compl. (Docket Entry # 1).) Plaintiffs bring six claims for (1) trademark infringement in violation of 15 U.S.C. § 1114, (2) trademark counterfeiting in violation of 15 U.S.C. § 1114, (3) unfair competition in violation of 15 U.S.C. § 1125(a), (4) federal trademark dilution in violation of 15 U.S.C. § 1125(c), (5) trademark infringement and unfair competition under New York common law, and (6) dilution and injury to business reputation in violation of New York General Business Law § 360-1. (Id.)

On March 7, 2011, upon Plaintiffs' motion, the Clerk of Court entered default against both Defendants. (Docket Entry # 11.) On March 10, 2011, Plaintiffs moved for default judgment. (Docket Entry # 12.) The court referred Plaintiffs' Motion for Default Judgment, including an inquest on damages if necessary, to Magistrate Judge Robert M. Levy for Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). (Order dated June 2, 2011.) Judge Levy recommended that the court grant

Plaintiffs' motion for default judgment, issue a permanent injunction against Defendants' use of GNC marks, and award Plaintiffs \$9,740.04 in fees and costs. (R&R (Docket Entry # 16).)

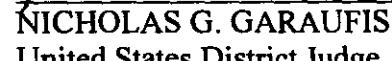
No party has filed an objection to Judge Levy's Report and Recommendation, and the time to do so has passed. Accordingly, the court reviews these recommendations for clear error. La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 U.S. Dist. LEXIS 23620, at *3 (E.D.N.Y. Mar. 15, 2010). Having reviewed the record and Judge Levy's R&R, the court finds no clear error. The court adopts the R&R in its entirety, and notes that the parties have waived further judicial review of this issue by failing to object. See Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd, & Carwile, P.C., 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's Report and Recommendation if the party fails to file timely objections designating the particular issue.").

For the foregoing reasons, the court adopts Judge Levy's R&R in its entirety. Plaintiffs' motion for default judgment is GRANTED. Defendants are permanently enjoined from using GNC marks, and they shall pay Plaintiffs \$9,740.04 in fees and costs.

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York
September 12, 2011


NICHOLAS G. GARAUFIS
United States District Judge